Chemical Weapons Convention

QUESTIONS AND ANSWERS

UNITED NATIONS

Introduction

THE YEAR 1993 marks the culmination of long, intensive efforts on the part of the international community to ban chemical weapons. On 13 January, the ***Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction,*** known as the chemical weapons Convention or *CWC*, was opened for signature in Paris by the Secretary-General of the United Nations. The Convention had been painstakingly negotiated in the Conference on Disarmament—the disarmament negotiating body of the international community—for a decade and had finally been adopted by the Conference in September 1992. It is the first disarmament agreement negotiated within a multilateral framework that provides for the elimination of an entire category of weapons of mass destruction.

Questions and Answers

■ What earlier efforts had been made to ban chemical weapons?

The Romans believed that war was to be waged with weapons, not with poison *(Armis bella no venenis geri)*. Modern efforts to ban chemical weapons date back to the 1874 Brussels Declaration, which prohibited the use of poisons and poisoned bullets in warfare. A subsequent declaration, signed at the Hague Conference of 1899, condemned the use of "projectiles the sole object of which is the diffusion of asphyxiating or deleterious gases."

Despite these declarations, chemical weapons were used extensively during the First World War.

Wide-spread public condemnation of their use led to the signing, on 17 June 1925, of the Geneva Protocol, which prohibits "the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices", as well as "the use of bacteriological methods of warfare". While making the use of chemical or biological weapons illegal, the Protocol does not forbid their development, production, stockpiling or deployment, nor does it provide for mechanisms and procedures for dealing with violations. Recognizing the limitations of the Protocol, some 40 States, at the time of ratifying it, made reservations to the effect that it would not be binding on them with regard to States that failed to respect its prohibitions. Recently, however, a considerable number of States have withdrawn their reservations.

■ What role has the United Nations played?

Because of the obvious shortcomings of the Geneva Protocol, the international community continued to seek a total ban on chemical weapons. In 1948, the United Nations Commission for Conventional Armaments defined chemical and bacteriological weapons as weapons of mass destruction. The first General Assembly resolution on the question of chemical and bacteriological warfare was adopted in 1966, and the subject was taken up in 1968 as a distinct issue by the Eighteen-Nation Committee on Disarmament, as the negotiating body was then called. The international community's concern with chemical weapons was also reflected in a 1969 report by the Secretary-General entitled "Chemical and Bacteriological (Biological) Weapons and the Effects of their Possible Use".

The question of chemical and biological weapons was traditionally treated as a single issue requiring a unified approach. However, in 1971, it was agreed to separate the two aspects in the hope that it would be possible to achieve an early ban on bio-

logical weapons—weapons that were considered to be of less military value than chemical weapons. In 1972, following the submission of two identical draft texts by the Eastern European States, on the one hand, and by the United States, on the other, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction was concluded. It was opened for signature on 10 April 1972 and entered into force on 26 March 1975.

The biological weapons Convention was considered "a first possible step" towards a comprehensive ban on chemical weapons. In the following years, as many countries developed a modern chemical industry, the number of potential possessors of chemical weapons increased considerably; moreover, instances of actual hostile use of certain chemicals caused great concern. In 1980, the Conference on Disarmament began working towards a convention on chemical weapons, but progress was evident only late in the decade, after some rapprochement had occurred with regard to the sensitive issues related to verification of implementation of a convention and after the former Soviet Union and the United States had advanced in their bilateral negotiations. In 1991, the war in the Persian Gulf and the possibility that chemical weapons might be used added urgency to efforts, and by the end of its 1992 session, the Conference had successfully concluded its negotiations on the chemical weapons Convention.

■ What are the main provisions of the chemical weapons Convention?

The chemical weapons Convention consists of the preamble, 24 articles and three annexes—*Annex on Chemicals, Verification Annex* and *Confidentiality Annex*—that form an integral part of the Convention. The Convention, which will be

of unlimited duration, will enter into force 180 days after the date of the deposit of the 65th instrument of ratification, but in no case earlier than two years after its opening for signature. The *Organization for the Prohibition of Chemical Weapons*, known as *"the Organization"*, will be established to ensure its implementation. The Secretary-General of the United Nations is the depositary of the Convention.

The ***preamble*** expresses the determination of States parties to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and recalls the multilateral instruments pertinent to the Convention: the Geneva Protocol and the biological weapons Convention. Furthermore, to address concerns regarding the possible use of herbicides as a method of warfare, the States parties recognize *"the prohibition, embodied in the pertinent agreements and relevant principles of international law, of the use of herbicides as a method of warfare"*.

Article I ***(General Obligations)*** incorporates the basic undertakings of States parties. Each State party undertakes never, under any circumstances, to develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer them, directly or indirectly, to anyone; never to use chemical weapons; never to engage in any military preparations to use chemical weapons; or never to assist, encourage or induce, in any way, anyone to engage in any activity prohibited under the Convention. Each State party undertakes to destroy chemical weapons and such production facilities as it owns or possesses, or that are located in any place under its jurisdiction or control, as well as all chemical weapons it has abandoned on the territory of another State party. Each State party undertakes not to use riot control agents as a method of warfare.

The definitions in *article II* ***(Definitions and Criteria)*** make clear that the ban envisaged in *article I* extends not only to chemical warfare agents, but also to the means of delivery and other devices specifically designed for the use of chemical weapons. *Article II* defines "chemical weapons", "toxic chemicals", "precursor", "key components of binary or multicomponent chemical systems", "old chemical weapons", "abandoned chemical weapons", "riot control agents", "chemical weapons production facility", and "production capacity".

Under *article III* ***(Declarations)***, each State party shall, not later than 30 days after the Convention enters into force for it, submit to the *Organization* detailed declarations with respect to chemical weapons, to old and abandoned chemical weapons, and to chemical weapons production facilities, specifying their precise location and quantity, and providing a general plan for their destruction. Declarations are also required with respect to other facilities and to riot control agents.

Article IV ***(Chemical Weapons)*** and *article V* ***(Chemical Weapons Production Facilities)***, in conjunction with the *Verification Annex*, contain detailed provisions governing the destruction of chemical weapons and chemical weapons production facilities, including verification of destruction. Each State party will have to complete destruction not later than 10 years after entry into force of the Convention. In certain circumstances, it may be possible for a State party to have the time-frame extended by up to five years, or to convert to peaceful uses, rather than destroy, chemical weapons production facilities under strict conditions preventing possible re-conversion. In both cases rigorous additional verification measures would be applied. The articles describe how on-site inspections at chemical weapons storage sites and chemical weapons production sites, as well as the moni-

toring of chemical weapons production sites, would be carried out.

Article VI ***(Activities Not Prohibited under This Convention)***, in conjunction with the *Verification Annex*, sets forth a comprehensive and graduated routine regime for international monitoring through declarations and on-site inspections, in particular in the chemical industry. The forms of inspection relate to each of the *Schedules of Chemicals* (lists of chemicals categorized according to the risk they pose to the object and purpose of the Convention), as well as to other chemical production facilities deemed relevant to the Convention.

Article VII ***(National Implementation Measures)*** relates to the undertaking of States parties to ensure national implementation of the Convention. This includes the designation or establishment of a National Authority to serve as the focal point for effective liaison with the *Organization*.

Article VIII ***(The Organization)*** establishes the *Organization for the Prohibition of Chemical Weapons* with its Headquarters in The Hague, the Netherlands. It will comprise a number of organs. The *Conference of the States Parties* shall be the principal decision-making body and is expected to meet annually. The *Executive Council*, with a membership of 41 States parties representing five regional groups, will be the executive organ of the *Organization* and responsible for supervising its activities. The *Technical Secretariat*, headed by a Director-General, will conduct the practical work of the *Organization*. The principal component of the *Secretariat* will be its inspectorate, responsible for carrying out the verification provisions of the Convention.

Article IX ***(Consultations, Cooperation and Fact-Finding)***, in conjunction with the *Verification Annex*, provides for short-notice challenge inspections. A State party may request a challenge inspection of any facility or location in the territory of another

State party for the purpose of clarifying and resolving any questions concerning possible non-compliance. The inspected State party must permit the *Technical Secretariat* to conduct the inspection and is obliged to grant the inspection team access. However, provisions are built in that allow an inspected State party to protect, from undue intrusion, activities and installations which it considers unrelated to the inspection request.

Under *article X* ***(Assistance and Protection against Chemical Weapons)***, States parties have the right to request and receive assistance and protection against the use or threat of use of chemical weapons. The article obliges parties to provide assistance through the *Organization* by the election of one or more of the following measures: contribution to the voluntary fund to be established by the *Conference of the States Parties*; conclusion of agreements with the *Organization* for procurement of assistance in case of use or threat of use of chemical weapons against a State party; and declaration of the kind of assistance to be provided in emergencies.

Article XI ***(Economic and Technological Development)*** aims at promoting expanded international trade, economic cooperation and technological development in the field of chemistry. It encourages the progressive removal of existing restrictions, evolving in parallel with the implementation of verification of the chemical industry.

Article XII ***(Measures to Redress a Situation and to Ensure Compliance, including Sanctions)*** provides the means to remedy any situation which contravenes the provisions of the Convention. A State party deemed not to be in full compliance with the Convention may be required to take remedial action, and in the event it fails to do so, would be subject to a number of penalties, including sanctions. Cases of particular gravity could be referred to the Security Council for any further, pos-

sibly mandatory, action under the Charter of the United Nations.

The remaining 12 articles of the Convention deal with: its relation to other international agreements; settlement of disputes; amendments; duration and withdrawal; status of the annexes; signature; ratification; accession; entry into force; reservations; depositary; and authentic texts.

The ***Annex on Chemicals*** contains three *Schedules of Chemicals* and the *Guidelines for the Schedules*. The *Schedules* identify chemicals for the application of verification measures according to the relevant parts of the *Verification Annex*. The level of control over any individual chemical relates to the level of risk it poses to the object and purpose of the Convention and to the peaceful use of the chemical; the most stringent measures are applied to *Schedule 1*, and progressively less stringent measures are applied to *Schedules 2 and 3*.

The ***Verification Annex*** consists of 11 parts, most of which refer to the specific verification procedures envisaged for the destruction of chemical weapons and of chemical weapons production facilities, routine inspection in the chemical industry and challenge inspections. In addition, it also contains specific measures for investigation in cases of alleged use of chemical weapons.

The ***Confidentiality Annex*** stipulates the general principles for the handling of confidential information, the employment and conduct of personnel in the *Technical Secretariat*, measures to protect sensitive installations and prevent disclosure of confidential data in the course of on-site verification activities, and procedures in case of breaches or alleged breaches of confidentiality.

■ What is the status of the Convention now?

At present the Convention is open for signature for all States; its effectiveness will depend to a large extent on the degree of universality that it attains. At the Signing Ceremony in Paris from 13 to 15 January, 130 States signed the Convention. As of 31 August 1993, there was a total of 148 signatories—4 of which had also deposited instruments of ratification (see list below).

The signatory States are in the process of ratifying the Convention through their national legislative processes. The Convention will enter into force 180 days after the deposit of the 65th instrument of ratification, but in no case earlier than January 1995.

On 8 February 1993 in The Hague, the Secretary-General of the United Nations convened the *Preparatory Commission for the Organization. The Commission* is to lay the groundwork for the effective implementation of the provisions of the Convention. It will make the necessary arrangements to allow for the efficient functioning of the *Organization* immediately after the Convention enters into force.

Conclusion

The chemical weapons Convention represents an outstanding achievement of multilateral diplomacy. It provides for the complete elimination of an entire category of weapons of mass destruction—weapons that exist in large quantities, that are believed to be possessed by some two score countries, and that have, in several cases, been used in combat, and it provides for a comprehensive verification system. The challenge inspection regime, which is one element of that system, constitutes a novelty in the verification of a universally applicable arms control and disarmament treaty, balancing the verification interests of both a State party and the international community.

As of 31 August 1993, the States listed below had signed the Convention (4 States that had also ratified it are indicated in bold type):

Afghanistan, Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chile, China, Colombia, Comoros, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Estonia, Ethiopia, **Fiji**, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Latvia, Lao People's Democratic Republic, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Marshall Islands, Mauritania, **Mauritius**, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, **Seychelles**, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, **Sweden**, Switzerland, Tajikistan, Thailand, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Zaire, Zambia, Zimbabwe.

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